

1 JUDGE SIPPEL: For what company?

2 WITNESS: Comcast Cable.

3 JUDGE SIPPEL: Okay, so you have  
4 a Comcast official?

5 WITNESS: Yes, that's it. You  
6 don't go to that system head end, when you are  
7 in a case like this when you've gone carriage.  
8 And you can go to the low guy, you go to the  
9 high guy on the top.

10 BY MR. KIRK:

11 Q Then why would Comcast have  
12 negotiated a hunting license, which you just  
13 indicated was a procedure where you go to the  
14 system and try to convince them to carry  
15 programming?

16 A You'd have to ask Comcast that  
17 question. I didn't negotiate this; I wasn't  
18 there.

19 Q But you are saying that you would  
20 never go to the system level; that's a  
21 provision that has no meaning.

22 A There is a history in this case of

1 non-carriage; there is a history of  
2 retaliation, while you guys are sending out  
3 letters that blamed us for a rate hike. So  
4 everybody at the level, the level below  
5 Ortman, understands that this is not a normal  
6 circumstance where you would call a guy who  
7 operates a head end, immediately he is going  
8 to call Ortman and ask him what he thinks.

9 I have a great relationship with  
10 Mike. I went right to Mike, and I said, hey,  
11 we have an issue. Why aren't we carried here?  
12 We all though we were being carried here.

13 So that is the process I took.

14 JUDGE SIPPEL: Now Mike again is  
15 who, Mr. Ortman?

16 WITNESS: Mike is, yes, he works  
17 for Comcast Cable. He used to distribute the  
18 Orioles for HDS.

19 JUDGE SIPPEL: Yes.

20 WITNESS: For the Orioles  
21 Television Network. And now he's vice  
22 president for Comcast Cable. He is the guy I

1 call, and he calls me whenever we have issues.

2 JUDGE SIPPEL: And did you have a  
3 relationship with him when you were with  
4 Comcast?

5 WITNESS: Absolutely; yes, I did.  
6 I believe I testified before --

7 JUDGE SIPPEL: You probably did,  
8 but I didn't remember that.

9 WITNESS: No, that's okay, but  
10 he's the guy -- when I worked -- when I was  
11 vice president of Comcast Sports Net he was my  
12 point person for cable, for Comcast Cable.

13 JUDGE SIPPEL: Okay, go ahead.

14 BY MR. KIRK:

15 Q And to be clear, Mike Ortman is  
16 the vice president with regard to Comcast's  
17 mid-Atlantic region; correct?

18 A I believe his title is vice  
19 president of the eastern division. I could be  
20 wrong. You probably know better than me.

21 Q Under the agreement, are 150,000  
22 former Adelphia systems in the Roanoke-

1     Lynchburg area excluded?

2             A       So I don't specifically know what  
3     were former Adelphia systems and what were  
4     not. I don't have that in front of me, I have  
5     that in my research.

6             Q       When MASN first learned about the  
7     number of subscribers, Comcast subscribers,  
8     that were carved out for the agreement, did  
9     Mr. Gluck indicate that it was an opportunity  
10    to acquire additional subscribers above and  
11    beyond projections?

12            A       Yes, he did.

13                   JUDGE SIPPEL: I wonder if we  
14    could, and I'm sorry to interrupt, if I'm  
15    repeating, asking a repetition here, but could  
16    somebody describe the circumstances under  
17    which MASN discovered that they were not  
18    getting coverage that they thought they were  
19    getting? Isn't that the area that you are in?

20                   WITNESS: I can do that for you.

21                   JUDGE SIPPEL: I don't want to  
22    upset Mr. Kirk here.

1 MR. KIRK: That's fine, Your  
2 Honor.

3 JUDGE SIPPEL: Go ahead, do that.  
4 I mean there must have been a day when all of  
5 a sudden when wow.

6 WITNESS: Yes, there was a day.

7 JUDGE SIPPEL: The wow day.

8 WITNESS: So Comcast launched  
9 this in September of '06.

10 JUDGE SIPPEL: September, '06.

11 WITNESS: September, '06, I  
12 believe 38 systems out of the 60. I was not  
13 in affiliate relations at that time. In  
14 December or January of that year, and there  
15 are emails and documents that everybody has,  
16 where we discovered that we were not being  
17 carried in the Roanoke-Lynchburg area because  
18 of a sales issue. We had sold some  
19 advertising to local [REDACTED] down in  
20 that area. One of our sales guys said to the  
21 head of affiliate relations at that time, a  
22 lady at that time, these guys are saying we

1 are not carried down there, in Roanoke and  
2 Lynchburg. And our affiliate relations person  
3 was taken aback by that. She didn't know  
4 that. We thought we had fully penetrated on  
5 the Comcast systems. We had never been told  
6 otherwise in the office.

7 And I took over affiliate  
8 relations in January. This issue came to my  
9 attention I think it was late December of that  
10 year.

11 JUDGE SIPPEL: Of 2007?

12 WITNESS: The issue came to light  
13 in either late December of 2006 or January of  
14 2007. Somewhere at that point. It was right  
15 about the time that I was taking over the  
16 affiliate relations department.

17 JUDGE SIPPEL: And this was in  
18 Roanoke?

19 WITNESS: Roanoke and the  
20 Lynchburg area, yes.

21 JUDGE SIPPEL: And you were  
22 supposed to be carrying signals down there,

1 and Toyota was expecting see a commercial and  
2 they didn't see it?

3 WITNESS: That's right. Because  
4 they didn't -- because we all assumed Comcast  
5 was carrying MASN when they watched the  
6 Comcast system they didn't have MASN. I  
7 believe they alerted the sales representative  
8 who alerted the affiliate relations  
9 department. And then the wheels started  
10 spinning. We tried to check on where else we  
11 weren't being carried. And then it came to  
12 light that Harrisburg wasn't being carried as  
13 well.

14 JUDGE SIPPEL: Was there a call  
15 made to this person you referred to?

16 WITNESS: Absolutely, calls and  
17 emails.

18 MR. KIRK: Is this Mike Cobb you  
19 are referring to?

20 WITNESS: I think he was  
21 referring to Mike Ortman at Comcast.

22 JUDGE SIPPEL: That was the name

1     you were using.

2                   WITNESS:     Yes, Mike Cobb is I  
3     believe the sales guy.

4                   BY MR. KIRK:

5           Q       And didn't Mike Cobb go to a web  
6     site called backchannelmedia.com and send an  
7     email with a list of excluded systems from the  
8     agreement?

9           A       I can't be sure of that.  You show  
10    me an email from them, and I couldn't make out  
11    who sent that and who went on that website.  
12    I couldn't figure that out.  Sorry, I can't  
13    help you with that one.

14          Q       And you indicate that during that  
15    sales query in 2007 was the first time you  
16    were able to figure out that there were  
17    excluded systems, that you didn't have  
18    carriage everywhere, correct?

19          A       That is the first time that came  
20    to light.  For me, anyway.

21          Q       Why wasn't the exercise that we  
22    just undertook comparing the two lists



1 undertaken while the parties were negotiating  
2 an agreement?

3 A You are asking me a hypothetical.  
4 I was not involved at that time in those  
5 negotiations or the Comcast agreement. I  
6 didn't come on board then.

7 Q Well, then let me ask the  
8 following hypothetical. Could that exercise  
9 we conducted a few minutes ago have been  
10 conducted on August 4th?

11 MR. FREDERICK: Objection.

12 JUDGE SIPPEL: No, I understand.  
13 I think it's a good objection. I'll sustain  
14 it. You have to lay some kind of a foundation  
15 as to, was he in a position to know that or  
16 find it out.

17 MR. FREDERICK: Your Honor, we  
18 object because he's asking the witness to  
19 speculate about matters he's testified to --

20 JUDGE SIPPEL: I'm saying, he  
21 can't speculate. I'm saying that he has to  
22 lay a foundation that is going to get it out

1 of speculation range.

2 BY MR. KIRK:

3 Q You're head of affiliate relations  
4 today, correct?

5 A Since January, '07, yes.

6 Q If the parties were to enter into  
7 an agreement today would you compare the two  
8 lists that we just went through to determine  
9 whether or not all systems were included?

10 A There is no way I would go off  
11 this MASN list, and here is why. You have to  
12 go off what the cable company provides you and  
13 the reason is this. The names you list on  
14 Schedule A, and the head ends and the  
15 counties, can't tell you exactly how that  
16 cable operator decides to distribute the  
17 network. Your names on Schedule A doesn't  
18 necessarily correspond to other sources. The  
19 only way you can get, in my opinion, the  
20 accurate information is from the cable  
21 company. I'll give you one example.

22 Comcast feeds one of the 13 feed

1 points that is in Lebanon, Pennsylvania.  
2 Comcast doesn't carry MASN to Lebanon,  
3 Pennsylvania, but yet they feed us from there.  
4 So there are a lot of different ways to  
5 interpret what is on Schedule A, and how much  
6 of this and that it covers in my opinion.

7 JUDGE SIPPEL: Well, you've got  
8 me on that. I don't want to interrupt Mr.  
9 Kirk. But you say the feed comes into Lebanon  
10 -- Comcast is providing the feed into Lebanon;  
11 am I right?

12 WITNESS: From Lebanon.

13 JUDGE SIPPEL: Wait a minute,  
14 let's get the feed into Lebanon. Who's doing  
15 that?

16 WITNESS: A big dish in the sky,  
17 we reserve satellite space in the sky.

18 JUDGE SIPPEL: Okay, all right,  
19 when it gets into Lebanon then what happens.

20 WITNESS: Then Comcast feeds it  
21 to certain points in our territory where they  
22 carry MASN. But it's somewhat ironic in my

1 opinion that they feed out of Lebanon but they  
2 don't carry us in Lebanon.

3 MR. KIRK: But wouldn't those  
4 points that are receiving the feed be listed  
5 on Schedule A? And similarly didn't the  
6 systems listed on Schedule A correspond  
7 identically, virtually identically, to every  
8 system name you had on the MASN list?

9 MR. FREDERICK: Objection,  
10 compound.

11 JUDGE SIPPET: Sustained. Just  
12 break it up.

13 BY MR. KIRK:

14 Q Did the Comcast system names  
15 correspond virtually identically to the system  
16 names on the MASN list?

17 A On the MASN list I see 22 names.  
18 On this list I see 60 names.

19 Q That's the schedule.

20 A That's right, I counted 60 on  
21 this, you asked me to count 60. And then you  
22 presented me with this list which has 22. So

1 22 versus 60; that's why you can't go off this  
2 list. The MASN. You have to go off what the  
3 cable company provides you, to be certain.

4 Q Go off, you mean rely on it,  
5 that's what you rely on; is that what you  
6 mean, go off on?

7 A Judge, he's gone -- Comcast --

8 Q Wait a minute, can you answer my  
9 question.

10 A I can rely on, with 100 percent  
11 certainty, what they give me. That's what I  
12 would rely on.

13 Q That didn't answer my question.  
14 And could the difference in the number of  
15 systems you were just talking about be  
16 reflected in the fact that Comcast acquired  
17 Adelphia systems that were listed elsewhere on  
18 the MASN list?

19 MR. FREDERICK: Objection,  
20 foundation and speculation.

21 JUDGE SIPPEL: Well, I do  
22 understand -- yes, I will sustain the

1 objection. Let's see if he knows about that.

2 Can you answer that question?

3 BY MR. KIRK:

4 Q Are there Adelphia systems listed  
5 on that list in your hand?

6 A I can't tell if some of these are  
7 Adelphia systems or not.

8 Q Flip the page. See if Adelphia is  
9 listed in there separately.

10 JUDGE SIPPEL: Now what list are  
11 you on now?

12 MR. KIRK: This is the MASN list.

13 JUDGE SIPPEL: The MASN list,  
14 okay. And what page are you directing him to?

15 MR. KIRK: If he were to turn to  
16 page two.

17 JUDGE SIPPEL: Ninety one dash

18 two? MR. KIRK: Ninety one dash two.

19 JUDGE SIPPEL: And the question  
20 is, which of these are Adelphia?

21 MR. KIRK: The question is, are  
22 there Adelphia systems listed on this page.

1                   MR. FREDERICK:    Your Honor, I  
2    want to object, because there is nothing on  
3    this page that says anything about systems.  
4    It identifies certain things.  It calls them  
5    select regions and subscriber counts, but it  
6    does not use the word system.  And I think  
7    what Mr. Kirk is trying to do is to compare  
8    apples to oranges.

9                   JUDGE SIPPEL:    All right, now if  
10   we go too deep into this, we are going to have  
11   to excuse the witness.  Let me ask the  
12   witness; to what extent do you have knowledge  
13   of this MASN list?  You weren't there when it  
14   was prepared.  It was prepared apparently  
15   before August of 2006.  I think we've  
16   established that much through you; am I right?

17                  WITNESS:    No.

18                  JUDGE SIPPEL:   No?

19                  WITNESS:    No, I believe that in  
20   the early 2000s, I prepared this list myself.

21                  JUDGE SIPPEL:   Oh you think you  
22   prepared it?

1                   WITNESS:   For John Angelos, yes,  
2   way before I was consulting for Mr. Angelos or  
3   anybody. Which is why I asked about the date -  
4   - this looks like something I produced maybe  
5   six years ago, maybe five years ago.

6                   JUDGE SIPPEL:   All right. Then  
7   that's good enough. Then what is it  
8   representing on page 91-2? What are these  
9   places, what would you characterize these as  
10   being? Obviously I know Norfolk is a city but  
11   what does that mean?

12                  WITNESS:   In the case of Cox this  
13   is where Cox distributes -- this is where Cox  
14   has head ends.

15                  JUDGE SIPPEL:   Are these systems?

16                  WITNESS:   Yes, these are called  
17   systems.

18                  JUDGE SIPPEL:   The Norfolk  
19   system?

20                  WITNESS:   Yes.

21                  JUDGE SIPPEL:   Fairfax system,  
22   Roanoke system, et cetera?



1 WITNESS: Yes.

2 JUDGE SIPPEL: Okay, question.

3 BY MR. KIRK:

4 Q You just indicated that you  
5 prepared that list for Mr. Angelos. How did  
6 you prepare it?

7 A I wish I could tell you. I wish I  
8 could remember it. I just can't recall now.  
9 That's why I asked you what year it was. This  
10 is probably 2004, and I don't remember where  
11 I got the information, what research I did,  
12 how I got it. There are a number of ways to  
13 get this information online; there are other  
14 ways, but I couldn't tell you whether it's all  
15 accurate or not. It doesn't look like it's  
16 accurate based on the match-up of the systems  
17 you had me read versus the attachment A.

18 Q But you were able to prepare that  
19 list without relying on Comcast?

20 A Yes, I don't believe I asked  
21 Comcast -- I don't believe I asked Comcast for  
22 Cox or Charter or Adelphia systems.

1           Q       So you were able to prepare a list  
2       without relying on the cable company to tell  
3       you where they were providing service?

4           A       Yes, I was able to do that; yes.

5           Q       Was that list ever shared with  
6       Mark Wyche or David Gluck?

7           A       I have no idea; no idea. This was  
8       done before I even heard those names.

9           Q       Okay. I'd like to move on to  
10       paragraph 11 of your written direct testimony.  
11       You state that Comcast carried the Orioles  
12       games for years to subscribers in Roanoke-  
13       Lynchburg; is that correct?

14          A       Yes, that's correct.

15          Q       What is the basis for your  
16       statement?

17          A       The basis for my statement is  
18       looking at the past research that my  
19       predecessor had done to tell us what the  
20       Orioles television network distribution list  
21       was.

22          Q       Do you know when Comcast first

1 entered the Roanoke-Lynchburg DMA?

2 A Comcast Cable?

3 Q Correct.

4 A Not off the top of my head I  
5 don't.

6 Q If Comcast first entered that DMA  
7 as part of the Adelphia transaction, when  
8 would that have occurred?

9 A 2006.

10 Q And if Comcast entered as part of  
11 the Adelphia transaction of 2006 how could  
12 they have been carrying the Orioles in that  
13 market for years?

14 A I believe -- doesn't paragraph 10  
15 refer to spring of '07. Can I read this for  
16 a second?

17 JUDGE SIPPEL: Yes, read it to  
18 yourself as much as you want, and then let us  
19 know when you are ready to answer.

20 WITNESS: Thank you, sir.

21 Okay.

22 BY MR. KIRK:

1           Q       If Comcast entered the market in  
2   2006 as part of the Adelphia transaction, what  
3   is the basis for your statement they were  
4   carrying the Orioles in Roanoke-Lynchburg for  
5   years?

6           A       Well, I think I was referring to  
7   the spring of 2007 when I wrote this. And  
8   then I believe I am talking about Comcast  
9   SportsNet to telecast Orioles games to  
10  subscribers in the Roanoke-Lynchburg DMAs for  
11  years. So I can understand why you might be  
12  confused, sir.

13          Q       The Comcast Cable network made a  
14  determination whether to carry in those  
15  markets; correct?

16          A       Well, I can't tell you that  
17  Comcast Cable was not in Roanoke-Lynchburg,  
18  because I don't know if the Adelphia  
19  transaction gave them its only systems in that  
20  area. I can't tell you whether Comcast was in  
21  Roanoke-Lynchburg or not with any specificity.

22          Q       In paragraph 12, you indicate that

1 Comcast has telecast Orioles games to its  
2 subscribers in Harrisburg for years when its  
3 affiliates CSNMA own the programming rights to  
4 the Orioles; correct?

5 A Yes, sir.

6 Q And you previously testified that  
7 you worked for CSN Mid-Atlantic, correct?

8 A I did. I was a vice president of  
9 programming, production and operations.

10 Q Did Comcast carry CSN Mid-Atlantic  
11 on expanded basic in Harrisburg?

12 A Don't know four years out, I never  
13 heard that Comcast SportsNet Mid-Atlantic was  
14 carried on anything but expanded basic.

15 Q Are you familiar with a channel  
16 line-up card?

17 A I am.

18 MR. KIRK: Your Honor, can I  
19 approach the witness to show him Comcast  
20 Exhibit No. 68 from its direct case?

21 JUDGE SIPPEL: You may.

22 MR. KIRK: And you can see we've

1 stricken the highly confidential annotation  
2 from the exhibit.

3 JUDGE SIPPEL: I see. Thank you.  
4 This is in evidence; is that correct?

5 MR. KIRK: This is in evidence.

6 BY MR. KIRK:

7 Q Do you recognize this, Mr.  
8 Cuddihy?

9 A I don't. I don't believe I've  
10 seen this before.

11 Q Based on your experience with CSN  
12 Mid-Atlantic, does this appear to be the  
13 Harrisburg channel line-up card?

14 A You have to give me a second to  
15 read it. I've never seen this before.

16 Q All right. The right side of the  
17 first page. It says Harrisburg channel line-  
18 up.

19 A Yes, based on that, I would say  
20 yes.

21 Q If you flip to page two, on the  
22 bottom left hand corner, there is a date.

1 Does it say December, 2004?

2 A It does.

3 Q So does this appear to represent  
4 the Harrisburg channel line-up card for  
5 December, 2004?

6 A It does.

7 Q Right above that date there is a  
8 legend with different colors. Have you seen  
9 those types of legends before?

10 A No, to be honest with you, no, I  
11 haven't.

12 Q Do you see the sports tier  
13 reference in that dark color?

14 A I do, in black, yes.

15 Q Okay, if you look on the far  
16 right-hand side under 189, under Comcast  
17 channel number --

18 A Yes.

19 Q -- do you see that 189 matches the  
20 color for sports tier on the legend? Each one  
21 of the channels has a different color.

22 A I see dark black next to Comcast

1 SportsNet. I see -- I also see next to  
2 Comcast SportsNet on Channel 35, a regular  
3 color. Is it possible it was on both,  
4 expanded basic and sports tier?

5 JUDGE SIPPEL: You can't ask  
6 questions.

7 BY MR. KIRK:

8 Q Do you see right above that, Fox  
9 Sports Pittsburgh, No. 188?

10 A I do see it.

11 Q And that is the same color,  
12 correct?

13 A That is the same color, yes.

14 Q Okay. And does that color appear  
15 to indicate sports tier to you?

16 A Yes.

17 Q In your testimony -- we will move  
18 away from that document now -- would MASN have  
19 agreed to allow Comcast to carry it on  
20 expanded basic in Harrisburg?

21 A Would you restate that?

22 Q If Comcast said, we will carry you



1 on expanded basic in Harrisburg like we did  
2 CSN Mid-Atlantic in December, 2004, would MASN  
3 have agreed?

4 A Let me make sure I get this right,  
5 because I'm not sure if you are mixing up the  
6 names or I'm mixing up the names.

7 If Comcast Cable offered to carry  
8 MASN on expanded basic in Harrisburg, then  
9 yes, I believe that we would have been happy  
10 with that, yes.

11 Q Okay, and if they offered sports  
12 tier carriage, like they had CSN Mid-Atlantic,  
13 would you have accepted sports tier carriage  
14 in Harrisburg?

15 A No, I don't believe we would have  
16 accepted sports tier carriage in Harrisburg.  
17 Why would we? Why should we?

18 Q So they carried their affiliate,  
19 CSNMA on the sports tier in Harrisburg, but if  
20 they offered the same carriage to MASN, you  
21 are stating MASN would have rejected that  
22 carriage?